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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,478	12/21/2001	James B. Melesky	13811	4450
293	7590	11/18/2003	EXAMINER	
DOWELL & DOWELL PC SUITE 309 1215 JEFFERSON DAVIS HIGHWAY ARLINGTON, VA 22202				A, PHI DIEU TRAN
		ART UNIT		PAPER NUMBER
		3637		

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	MELESKY, JAMES B.
Examiner	Art Unit
Phi D A	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 28 August 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-5,7,9 and 13-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,7,9,13-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6) Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Machledt (6006944).

Machledt shows an insulating cover (12) comprises a closure member of a free standing insulating material and including a body portion (36) and opposing side and end walls, the closure member including a depending central body portion of a size to complementary fit within the frame (22) defining the access opening, the depending central body portion (36) having an outer peripheral surface (the edge surface) which frictionally engages the frame defining a continuous first seal about the access opening when positioned in covering relationship with respect to the access opening, the closure member including laterally extending outer flange portions (40) for seating against an upper edge defined by the frame defining the access opening to thereby form a second seal with the frame.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-2, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al (4344505) in view of Brush jr. et al (4048926).

Waters et al shows an insulating cover comprising a closure member (28) formed of a free standing insulating material and including a body portion and opposing side and end walls, the insulating material of the closure member being an expanded polymeric material ( col 2 line 40).

Waters et al does not show the body portion having a depending central body portion of a size to complementary fit within the frame defining the access opening, the body portion having an outer peripheral surface which frictionally engages the frame defining the access opening to thereby create a continuous first seal about the access opening when positioned in covering relationship with respect to the access opening.

Brush Jr. et al shows a body portion having a depending central body portion (12) of a size to complementary fit within the frame (41, 38) defining an access opening, the body portion having an outer peripheral surface which frictionally engages the frame defining the access opening to thereby create a continuous first seal about the access opening when positioned in covering relationship with respect to the access opening to enable the secured sealing of the interior of the access opening from the outside.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al to show the body portion having a depending central body portion of a size to complementary fit within the frame defining the access opening, the body portion having an outer peripheral surface which frictionally engages the frame defining the access opening to thereby create a continuous first seal about the access opening when positioned

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in covering relationship with respect to the access opening because it would enable the secure sealing of the interior of the access opening from the outside as taught by Brush Jr. et al.

Per claim 2, Waters et al as modified by Brush jr. et al shows the closure member having laterally extending outer flange portions for seating against an upper edge defined by the frame defining the access opening to thereby form a second seal with the frame.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 2 above, and further in view of Daw et al (4832153).

Waters et al as modified shows all the claimed limitations except for the closure member being coated with a fire retardant material.

Daw et al discloses a closure member being coated with a fire retardant material (col 2 lines 47) to ensure safety against fire.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member being coated with a fire retardant material because it would protect the closure from fire as taught by Daw et al.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 2 above, and further in view of Anghinetti et al (3896595).

Waters et al as modified shows all the claimed limitations except for the closure member having at least one handle secured to the depending central body portion to facilitate maneuvering.

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Anghinetti et al discloses a handle (38) secured to the depending central body portion (18) to facilitate easy maneuvering of the closure member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member having at least one handle secured to the depending central body portion to facilitate maneuvering because it would enable easy maneuvering of the closure member as taught by Anghinetti et al.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 2 above, and further in view of Fuller (4281743) and Porter (5628158).

Waters et al as modified shows all the claimed limitations except for the closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for adhesively securing the opposing edges in inter-fitted relationship.

Fuller shows the closure member including at least first and second components (52, 53a, 53b, 52, figure 2) each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for securing the opposing edges in inter-fitted relationship.

Porter discloses adhesive means joining panel edges together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween as taught by Fuller,

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and means for adhesively securing the opposing edges in inter-fitted relationship because having the closure member made of multiple components would opposing edges engaged one another to create tortuous seal path therebetween would enable the creation of a large closure member from smaller pieces and thus resulting in ease of manufacturing and transport, and having the edges of the components joined adhesively would ensure the proper securing of the components together at assembly as taught by Porter.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 1 above, and further in view of Anghinetti et al (3896595).

Waters et al as modified shows all the claimed limitations except for the closure member having at least one handle secured to the depending central body portion to facilitate maneuvering.

Anghinetti et al discloses a handle (38) secured to the depending central body portion (18) to facilitate easy maneuvering of the closure member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member having at least one handle secured to the depending central body portion to facilitate maneuvering because it would enable easy maneuvering of the closure member as taught by Anghinetti et al.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 1 above, and further in view of Fuller (4281743) and Porter (5628158).

Waters et al as modified shows all the claimed limitations except for the closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for adhesively securing the opposing edges in inter-fitted relationship.

Fuller shows the closure member including at least first and second components (52, 53a, 53b, 52, figure 2) each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for securing the opposing edges in inter-fitted relationship.

Porter discloses adhesive means joining panel edges together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween as taught by Fuller, and means for adhesively securing the opposing edges in inter-fitted relationship because having the closure member made of multiple components would opposing edges engaged one another to create tortuous seal path therebetween would enable the creation of a large closure member from smaller pieces and thus resulting in ease of manufacturing and transport, and having the edges of the components joined adhesively would ensure the proper securing of the components together at assembly as taught by Porter.

10. Claims 14-15, 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al (4344505) in view of Brush jr. et al (4048926).

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Waters et al shows an insulating cover comprising a continuous frame (26, 20, 24, 22) having spaced side walls and spaced end walls and which frame is formed of a free standing insulating material, the frame defining an opening therethrough for alignment with the access opening and the frame being of a size to generally surround the access opening, a closure member (28) formed of a free standing insulating material and having side and end walls, the closure member, the insulating material of the closure member being an expanded polymeric material ( col 2 line 40).

Waters et al does not show the closure member being complementary to and snugly seats within the frame to create a first continuous seal within the frame when positioned in covering relationship with respect to the access opening defined by the frame.

Brush Jr. et al shows a closure member having a body portion having a depending central body portion (12) of a size to complementary fit within the frame (41, 38) defining an access opening to thereby create a continuous first seal within the frame when positioned in covering relationship with respect to the access opening defined by the frame to enable the secured sealing of the interior of the access opening from the outside.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al to show the closure member being complementary to and snugly seats within the frame to create a first continuous seal within the frame when positioned in covering relationship with respect to the access opening defined by the frame because it would enable the secure sealing of the interior of the access opening from the outside as taught by Brush Jr. et al.

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Per claims 15, 26, Waters et al as modified by Brush jr. et al shows the closure member having a depending central portion of a size to fit within the opening defined by the frame and frictionally engage the side walls and end wall of the frame and the closure member including flange portions which extend laterally outwardly relative to the depending central portion for seating against upper peripheral surfaces of the side and end walls of the frame to thereby form a second seal with the frame.

11. Claims 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al (4344505) in view of Brush jr. et al (4048926) as applied to claim 14 above and further in view of Fier (4302126).

Waters et al as modified shows all the claimed limitations except for the side and end walls of the closure member being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame are tapered inwardly from an upper surface toward a lower surface of the side and end walls thereof such that the tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame.

Fier (figure 9) shows a closure (49) having ends and side walls (the four quadrants of the diameter) being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame (40) being tapered inwardly from an upper surface toward a lower surface of the side and end walls (the four quadrants of the diameter) such that the tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the side and end walls of the closure member being tapered from an upper surface of the closure member toward a lower surface thereof, the side and end walls of the frame are tapered inwardly from an upper surface toward a lower surface of the side and end walls thereof such that the tapered side and end walls of the closure member cooperatively engage the tapered side and end walls of the frame as taught by Fier because having tapering mating surfaces at joints would ensure a tight fit for the mating parts without resorting to tight manufacturing tolerance and thus resulting in cost saving.

12. Claims 17, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al (4344505) in view of Brush jr. et al (4048926) as applied to claim 15 above and further in view of Sciambi et al(4591022).

Waters et al as modified shows all the claimed limitations except for the frame including a depending portion extending from each of the side and end walls, the depending portions being configured so as to extend within the access opening and to engage against a structural frame defining the access opening.

Sciambi et al (figures 1-2) shows the frame (196) including a depending portion (50) extending from each of the side and end walls, the depending portions being configured so as to extend within the access opening and to engage against a structural frame (26, 22) defining the access opening to enable the easy fastening of the frame to a structural frame.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the frame including a depending portion extending from each of the side and end walls, the depending portions being configured

so as to extend within the access opening and to engage against a structural frame defining the access opening because it would enable easy secure fastening of the frame to a structural frame.

Per claim 20, Waters et al as modified shows the frame including an upper section (the bottom section of 20), which extends laterally outwardly about the depending portion thereof so as to be seated above the frame defining the access opening.

13. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al (4344505) in view of Brush jr. et al (4048926) as applied to claim 14 above and further in view of Sciambi et al(4591022).

Waters et al as modified shows all the claimed limitations except for the frame including a depending portion extending from each of the side and end walls, the depending portions being configured so as to extend within the access opening and to engage against a structural frame defining the access opening.

Sciambi et al (figures 1-2) shows the frame (196) including a depending portion (50) extending from each of the side and end walls, the depending portions being configured so as to extend within the access opening and to engage against a structural frame (26, 22) defining the access opening to enable the easy fastening of the frame to a structural frame.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the frame including a depending portion extending from each of the side and end walls, the depending portions being configured so as to extend within the access opening and to engage against a structural frame defining the access opening because it would enable easy secure fastening of the frame to a structural frame.

Per claim 19, Waters et al as modified shows the frame including an upper section (the bottom section of 20), which extends laterally outwardly about the depending portion thereof so as to be seated above the frame defining the access opening.

14. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 15 above, and further in view of Anghinetti et al (3896595).

Waters et al as modified shows all the claimed limitations except for the closure member having at least one handle mounted to extend from a lower surface of the depending central portion of the closure member so as to be accessible within the access opening when the insulating cover is in place.

Anghinetti et al discloses a handle (38) secured to the lower surface of the depending central body portion (18) of the closure member so as to be accessible within the access opening when the insulating cover is in place to facilitate easy maneuvering of the closure member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member having at least one handle mounted to extend from a lower surface of the depending central portion of the closure member so as to be accessible within the access opening when the insulating cover is in place because it would enable easy maneuvering of the closure member from the access opening as taught by Anghinetti et al.

15. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 14 above, and further in view of Anghinetti et al (3896595).

Waters et al as modified shows all the claimed limitations except for the closure member having at least one handle mounted to extend from a lower surface of the depending central portion of the closure member so as to be accessible within the access opening when the insulating cover is in place.

Anghinetti et al discloses a handle (38) secured to the lower surface of the depending central body portion (18) of the closure member so as to be accessible within the access opening when the insulating cover is in place to facilitate easy maneuvering of the closure member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member having at least one handle mounted to extend from a lower surface of the depending central portion of the closure member so as to be accessible within the access opening when the insulating cover is in place because it would enable easy maneuvering of the closure member from the access opening as taught by Anghinetti et al.

16. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 15 above, and further in view of Fuller (4281743) and Porter (5628158).

Waters et al as modified shows all the claimed limitations except for the closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for adhesively securing the opposing edges in inter-fitted relationship so as to form a unified closure member.

Fuller shows the closure member including at least first and second components (52, 53a, 53b, 52, figure 2) each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for securing the opposing edges in inter-fitted relationship to form a unified closure member.

Porter discloses adhesive means joining panel edges together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween as taught by Fuller, and means for adhesively securing the opposing edges in inter-fitted relationship to form a unified closure member because having the closure member made of multiple components would opposing edges engaged one another to create tortuous seal path therebetween would enable the creation of a large closure member from smaller pieces and thus resulting in ease of manufacturing and transport, and having the edges of the components joined adhesively would ensure the proper securing of the components together at assembly as taught by Porter.

17. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 14 above, and further in view of Fuller (4281743) and Porter (5628158).

Waters et al as modified shows all the claimed limitations except for the closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for

adhesively securing the opposing edges in inter-fitted relationship so as to form a unified closure member.

Fuller shows the closure member including at least first and second components (52, 53a, 53b, 52, figure 2) each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween, and means for securing the opposing edges in inter-fitted relationship to form a unified closure member.

Porter discloses adhesive means joining panel edges together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member including at least first and second components each having opposing edges which are configured to cooperatively engage one another to create a tortuous seal path therebetween as taught by Fuller, and means for adhesively securing the opposing edges in inter-fitted relationship to form a unified closure member because having the closure member made of multiple components would opposing edges engaged one another to create tortuous seal path therebetween would enable the creation of a large closure member from smaller pieces and thus resulting in ease of manufacturing and transport, and having the edges of the components joined adhesively would ensure the proper securing of the components together at assembly as taught by Porter.

18. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waters et al in view of Brush Jr. et al as applied to claim 14 above, and further in view of Daw et al (4832153).

Waters et al as modified shows all the claimed limitations except for the closure member being coated with a fire retardant material.

Daw et al discloses a closure member being coated with a fire retardant material (col 2 lines 47) to ensure safety against fire.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Waters et al's modified structure to show the closure member being coated with a fire retardant material because it would protect the closure from fire as taught by Daw et al.

***Response to Arguments***

19. Applicant's arguments with respect to claims 1-5,7,9,13-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A  
November 13, 2003

PA

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Lanna Mai